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Ms. Cynthia L. Johnson
Director
Cash Management Policy & Planning Division
Department of the Treasury
Financial Management Service
Washington, D.C. 20227

RE: Social Security EFT Rules

Dear Ms. Johnson:

Thank you for your letter dated October 14. As you suggested in said letter, I am hereby supplementing the comments which I made in my letter dated September 10 to Secretary Rubin.

In your letter you indicate that: "Under the proposed rule that recipients would not be required to receive payment by EFT where EFT would impose a hardship due to 1) physical disability or 2) geographic barrier. In either case, an individual recipient with a bank account should not incur any additional costs for receiving a payment electronically." This is certainly a step in the right direction. HOWEVER, it does not address the practical reality of elderly peoples' lives in several respects:

A) NURSING HOME RESIDENTS by definition MUST BE DISABLED because state and federal laws (specifically, Medicare and Medicaid regulations) require that they pass a LEVEL OF CARE TEST. In other words, to qualify for nursing home care, individuals must undergo a formal functional assessment and be found to require nursing home care. Therefore, by definition, persons in nursing homes (Intermediate (ICF) or Skilled (SNF) Care Facilities) ARE disabled. For this reason, a blanket exemption for nursing home residents should be granted. Granting a blanket exemption will save the time and expense which would otherwise be required to establish the disability of persons who are, by their very definition, disabled.

B) You are proposing an exemption for physical disability. There are certainly many elderly persons who, due to mental (as opposed to physical) limitations, lack the ability to manage a bank account. Generally this is the case in situations where the person is accustomed to dealing with cash, whereas they have little or no experience with banks or banking procedures. The exemption should be

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expanded to include persons disabled by mental disability.

C) The regulation does not grant an exemption to Representative Payees where use of the EFT would impose financial hardship. Therefore Representative Payees are being required to set up bank accounts for the individual recipients. As I explained in my letter to Secretary Rubin, this will create a situation where a nursing home resident who has a Representative Payee will lose anywhere from \$2.00 - \$5.00 per month in bank charges. This will be an extreme hardship on recipients who are permitted to retain only a \$40.00 monthly personal needs allowance under Ohio's Medicaid regulations. The Regulation seems to have forgotten that a Representative Payee administers the BENEFICIARY'S funds and that any administrative costs imposed by federal regulations will be deducted from those benefits. It remains a classic case where a recipient will lose \$2-\$5 in benefits to save the treasury some forty cents. Furthermore, as I explained in my letter to Secretary Rubin, administering the funds will require administrative time, which will add cost to the nursing home's operation. These costs in turn will then be billed to the Medicaid program by all Medicaid providers. The net result will be that the federal and state governments will pay these added costs, and ultimately lose far more money than has been saved.

In summary, the same exemptions should apply to Representative Payees as are applied to individuals because the funds involved belong to the recipient and not the payee. Exemptions should be tied to the recipient's benefits and not to whether there is or is not a Representative Payee.

I would ask that you consider my comments as part of the proposed rulemaking on EFT pursuant to 31 CFR 208.

Sincerely yours,



Lewis H. Seiler